

The University of Wisconsin System
UNCLASSIFIED PERSONNEL GUIDELINE #7

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SUBJECT: Designation of Positions as "Academic Staff" Under s.36.09, Wis. Stats. or "Limited" Under Chapter UWS 15, Wis. Adm. Code

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7.01 PURPOSE

"Academic staff" is defined in state statutes [s. 36.05(1)] as "professional and administrative personnel other than faculty with duties, and subject to types of appointments, that are primarily associated with higher education institutions or their administration." [Professional and administrative appointments are further defined in s. 36.15(1), Stats.] Under s. 36.09(1)(e), Stats., the Board of Regents is assigned the responsibility to appoint the requisite number of academic staff. The authority of the Board to assign positions to the unclassified service as academic staff, is subject to s. 36.09(1)(i) Wis. Stats., which provides:

"Upon recommendation of the president and the administrator of the division of merit recruitment and selection in the department of employment relations, the board and the secretary of employment relations shall jointly adopt general policies governing the designation of positions to be exempt from the classified service as academic staff as defined in s. 36.15(1)(a) and (b). No position in the classified service may be designated as an academic staff position under the general policies unless the secretary of employment relations approves the designation."

The purpose of this Guideline is to provide guidance to the institutions in the furtherance of the joint policy and to extend the application of those principles to the designation of positions as "Limited" under Chapter UWS 15, Wis. Adm. Code.

7.02 BACKGROUND

As originally enacted under the University of Wisconsin System Merger Implementation Law (Chapter 335, Laws of 1973), s.36.09(1)(i) Wis. Stats., required the Board of Regents and the State Personnel Board, upon recommendation of the UWS President and the Director, State Bureau of Personnel, to jointly adopt general policies governing the designation of positions. From July, 1974, through May, 1977, the University System Central Administration and the Bureau of Personnel staff undertook a comprehensive examination of the various categories of personnel and the respective authority of the several offices and governing bodies involved. Regent Policy Document 75-3 (Attachment 1) accepted a proposed Regent policy regarding appointments to the academic staff as the document to be presented to the State Personnel Board for joint adoption. On July 8, 1976, UPG #7 was issued to offer explanation of the Regent policy. In March, 1977, the UWS President and the Deputy Director, State Bureau of Personnel, urged joint adoption of the general policy by the respective boards with three recommendations: 1) concurrence in Unclassified Personnel Guideline #7, dated July 8, 1976; 2) establishment of an ongoing UWS capability to analyze the various appointment practices under UPG #7; and 3) submission of periodic reports of appointments by UWS to the Director, State Bureau of Personnel. With State Personnel Board approval of Regent Policy Document 75-3 on June 13, 1977, the joint policy on designation of positions as academic staff (required by s.36.09(1)(i) Wis. Stats.) was adopted.

Chapter 29, Section 3053(6), Laws of 1985, required the UW System to establish a consistent title structure for academic staff. That legislative mandate enabled the UW System to create a comprehensive title structure with titles designed to apply to both academic staff and certain limited appointments. The implementation of the academic staff/limited title structure in January, 1987, prompted the development of supplementary guidelines to ensure continued compliance with the joint policy. (See Attachment 2)

In response to increasing legislative and executive branch concerns regarding the designation of positions as classified or academic staff, and in recognition that service designations at the institution level have a systemwide impact, President Shaw advised the chancellors in January 1988 that the delegation of authority to determine service designations at the institution was withdrawn until a revised UPG #7 could be issued. The revised personnel guideline, which specified that all institution requests for conversion of filled, new and redesigned vacant positions shall be subject to review and approval by System Administration, was issued in December 1988.

With the enactment of 1989 Wisconsin Act 31, s. 36.09(1)(i), Wis. Stats., was amended to grant the Secretary of the Department of Employment Relations the final authority to approve the designation of classified positions in the academic staff. This second revision to UPG #7 reflects the authority of the Department Secretary and the methods and means by which the Department and the UW System will administer the statute.

7.03 IMPLEMENTATION GUIDANCE FOR REGENT POLICY DOCUMENT 75-3

For purposes of policy and procedural amplification, the five provisions which constitute the Regent policy are repeated below, section by section, with following commentary and definitions:

- (1) Assignments to academic staff positions, which are exempt from the classified service and subject to personnel rules defined in UWS 8 through 13 shall be made when: (a) the position involves teaching, research, public service responsibilities, academic support activities or academic program administration; or (b) the position is separate and distinct to higher education; or (c) the position involves assigned duties which require close peer relationships with members of the faculty and academic administrators.

"Teaching", as used in this provision, means the performance, direction, or organization of instructional duties, whether accomplished on a campus or through the University System's outreach mechanisms. To be designated as academic staff, a position within teaching, as defined, must require professional expertise and/or training in a field clearly associated with instruction. Eligible positions include, but are not limited to, those titles identified by the function code "D" such as Lecturer and Clinical Professor.

"Research", as used in the Regent policy, implies professional expertise relating to the substance of the research effort or to the acquisition, analysis, or review of research data. Eligible positions include, but are not limited to, those titles identified by the function code "E" such as Researcher and Scientist. Persons in positions performing clerical or routine technical assignments in conjunction with research endeavors would not, however, be assigned to the academic staff under this definition. (See Provision #5)

"Public Service", as used in the Regent policy, means the position responsibilities contribute to the institution mission by providing service(s) to communities and to the people of the state. Eligible positions include, but are not limited to, Outreach Specialist and Outreach Program Manager.

"Academic support activities", as used in the Regent policy, incorporates professional and/or

administrative positions in direct support of academic programming. Eligible positions include, but are not limited to titles such as Academic Librarian, Advisor, Instructional Specialist, and Institutional Planner.

"Academic program administration", as used in the Regent policy, implies positions clearly identified with administration within an academic program setting. Titles appropriately designated academic staff would include, but not be limited to, Instructional Program Manager, Academic Planner, and Budget Planner.

"Positions separate and distinct to higher education", as used in the Regent policy, includes positions with duties specific to institutions of higher education such as specialized work of a type requiring an advanced degree. Such unique academic titles are listed in Supplemental Guidelines, Part I. (Attachment 2)

"Close peer relationships with members of the faculty and academic administrators", as used in the Regent policy, means that the individuals involved will have the professional/administrative experience and academic preparation as evidenced by appropriate degree requirements that is deemed necessary by, or is comparable to that of members of the faculty or the academic administration they must serve. These persons must function in close collegial interaction with members of the faculty or the academic administration and exercise similar (or comparable) professional and/or decision-making responsibilities. This potentially difficult gray area for designation judgments calls for active prior involvement and advice from the compliance review committee or responsible administrative official under Provision #4 below. For example, it is conceivable that the principal financial officer of a college, school or campus would be either a limited staff member or an academic staff member, while the bulk of his/her staff would be in the classified service.

- (2) In no instance may an employee be appointed to the academic staff when it is anticipated that application will subsequently be made for transfer of the position to the classified service.

The integrity of both the unclassified service (academic staff and limited) and the classified service is compromised when transfers either way are made in a manner designed to subvert normal channels of salary administration or competition for a particular position. Review of all applications for transfer of filled, new or redesigned vacant positions between the two categories of appointment should be rigorous and must in all instances be accomplished upon recommendation of a campus administration with advice from a review committee.

- (3) No person holding an academic staff appointment prior to the adoption of this policy may be transferred to the classified service without his or her consent.

Regent Policy Document 75-3, adopted on April 11, 1975, dealt with the future designation of positions as either academic staff or classified. In order to avoid a retrospective application of the new policy and guidelines, Provision #3 was designed to protect incumbents of academic staff positions prior to April 11, 1975, from any future unilateral attempt to redesignate their positions in the classified service as long as the incumbents continue to serve in the same position. The Regent policy does not offer a "grandfather" provision to those academic staff employees who began employment prior to April 11, 1975, but now hold a different academic staff position. Similarly, this "grandfather" provision does not apply to limited appointees and incumbents of academic staff positions who began their academic staff appointments on or after April 11, 1975.

Many appointments to academic staff positions are for a fixed term pursuant to s.UWS 10.03(1), Wis. Adm. Code and positions themselves can be considered fixed term. In the event System Administration or the institution determines that a position designated in the unclassified civil

service as academic staff should be included in the classified service, and the incumbent is unwilling to transfer to the classified service, the position shall be converted to the classified service upon expiration of the fixed term contract in effect at the time of such determination (providing that due notice of non-renewal is given pursuant to s.UWS 10.05(1), Wis. Adm. Code). If the incumbent holds an indefinite appointment or if the academic staff position has been occupied by the same incumbent prior to April 11, 1975, the position shall be converted to the classified service upon vacancy of the position.

[NOTE: The above provision regarding positions filled by academic staff on fixed term contracts shall not apply to those persons whose positions were reviewed in the service designation study of 1993. Pursuant to the Memorandum of Agreement between the UW System and the State Department of Employment Relations, such persons shall be allowed to remain in their positions as academic staff.]

The President and the Chancellors have the authority to appoint persons to certain administrative positions as limited appointments under Chapter UWS 15 Wis. Adm. Code. A person in this type of appointment serves at the pleasure of the President or the Chancellor. In the event System Administration or the institution determines that a position designated in the unclassified civil service as a limited position should be included in the classified civil service, the limited appointment shall be terminated pursuant to s.UWS 15.01(1), Wis. Adm. Code.

Section 230.15(1), Wis. Stats. provides that when a position in the unclassified service is determined to be more appropriately included in the classified service, the Administrator, Division of Merit Recruitment and Selection in the Department of Employment Relations shall determine the appropriate eligibility and status of the employee. In addition, the Secretary of the Department of Employment Relations is given authority to determine appropriate pay and benefits. Therefore, when an unclassified position is scheduled to be designated in the classified service and the incumbent of such position wishes to retain that position following the conversion, the UW System Office of Human Resources and the institution shall jointly present the Department of Employment Relations with a proposal to secure approval of the request for continued employment at an appropriate level of status, pay and benefits.

- (4) The Chancellor of each institution shall appoint a committee or committees which will be given responsibility for advising the campus administration on matters pertaining to (a) assuring compliance with this policy, (b) developing appropriate institutional guidelines and procedures for appointments to the academic staff, and (c) reviewing and approving all applications for transfer between the academic staff and the classified service.

The Chancellor may assign the designated responsibilities to several existing committees or may appoint a new committee at his/her option. The assignment relating to compliance and transfers between the unclassified service (academic staff and limited) and the classified service is continuing and should be addressed with regularity. Pursuant to s. 36.09(4m), Wis. Stats., academic staff members shall be represented in the development of all policies and procedures in this regard. Membership of the committee should include a person(s) who is knowledgeable of the classified service classification structure and the unclassified title structure. The compliance review committee should be fully informed with respect to the duties and responsibilities of the position under consideration, the history of any changes in the position duties and the availability of civil service classifications.

- (5) Nothing in this policy or in the institutional guidelines adopted pursuant to this policy shall be interpreted to permit assignment to the academic staff of positions normally found in clerical, (routine) technical, blue collar, crafts, security and public safety occupations.

Positions in the enumerated categories are well established and defined in the classified service. To assign positions in these categories to the unclassified service (academic staff or limited) would create clear contradictions that would subvert personnel rules applying to both the unclassified and the classified service. The following guidelines may be used in identifying many of the positions in question.

"Clerical positions" are those with major responsibilities in such areas as word processing, payroll and benefits processing, fiscal record keeping, information disbursement and paraprofessional administrative assistance.

"Technical positions" include such titles as laboratory technician, computer operator, and electronic technician but do not include, for purposes of this provision, positions involving high technology identified with a university's research function. Such positions are properly assigned to the academic staff.

"Blue-collar positions" include, but are not limited to, such titles as laborer, custodian, and maintenance mechanic.

"Crafts positions" include, but are not limited to electricians, carpenters, painters and plumbers.

"Security and public safety occupations" include, but are not limited to security officers and police officers.

In addition to the categories described above, the classified service designates certain supervisory and confidential positions as "non-professional." By definition, the academic staff consists of administrative and professional positions which consistently exercise discretion and judgment with primary duties related to the performance of work related to management policies or to the performance of primarily specialized work of a type requiring an advanced degree. Therefore, a position designated in the classified service as "non-professional" should not be converted to the academic staff unless a substantial change in the primary duties of such position warrants a "professional" designation evidenced by appropriate degree requirements and the redesigned position satisfies the criteria outlined in section 7.03(1) of this guideline.

7.04 RESPONSIBILITIES AND PROCEDURES

As noted in section 7.02 above, the second of three recommendations which supported joint adoption of the Regent policy in 1977 was "establishment of an ongoing UWS capability to analyze the various appointment practices under UPG #7." The Regent policy defines the role of institution compliance review committees to include "assuring compliance with this policy." Moreover, the amendment of s. 36.09(1)(i) Stats., in 1989, grants final authority for the designation of positions in the classified service as academic staff to the Secretary, Department of Employment Relations. The statute will be administered under terms of an agreement between the Secretary and the UW System President. (See Attachment 5) That agreement may grant the UW System the authority to designate certain classified positions as academic staff on behalf of the DER Secretary.

Designation of positions as classified or unclassified has an impact on all institutions. It is anticipated that conversions will be rare. Title and salary constraints imposed by either the academic staff/limited title structure or the classified service which allegedly create recruitment, salary or career advancement problems, may not form a basis for designation of a position in either the unclassified or classified service. (See Attachment 3 for additional guidance.)

A common response to changing program needs within limited resources is a review of vacant classified

and unclassified positions for possible redesign and/or redistribution among the departments. The compliance review committee should be involved in such deliberations.

Questions regarding the proper service designation of positions can arise at the time a new position is requested or when a vacant position is redesigned to meet changing human resource needs. In addition, an employee and/or supervisor may have questions regarding the current service designation of a filled position; particularly if duties and responsibilities have changed since the original placement of the position. The following procedures are designed to provide an orderly response to these questions within the framework of Regent policy and statutory requirements.

(1) Review of new positions:

The UW System Administration Office of the Vice President for Business and Finance has established procedures for creating additional classified and unclassified positions within authorized levels. Those procedures describe the approval and reporting requirements for Systemwide and unit-wide position requests through the annual budget process and/or requests to add positions during the fiscal year. The institution compliance review committee should review all requests for new positions and advise the Chancellor regarding the proper service designation of new positions.

Institution requests for additional permanent or fixed term positions which involve position transfers from the Systemwide position control account are subject to the approval of the UW System Office of Financial Administration. The UW System Office of Human Resources will be responsible for analyzing the position title and type of appointment and for advising the UW System Office of Financial Administration accordingly.

The UW System Office of Financial Administration has authorized the institutions to build positions into department budgets by offsetting the positions with a negative entry in the unit-wide position control account, subject to quarterly reporting on the use and status of the unit-wide account. Upon the advice of the compliance review committee, the Chancellor is delegated the authority to add positions into department budgets using the unit-wide account when the position is recommended for designation in the classified service or when the position is recommended for designation in the unclassified service in a position title identified as separate and distinct to higher education. (See Attachment 2; Supplemental Guidelines, Part I) If the requested position can be described under an unclassified title that may reflect some duties which are similar to those performed in the classified service (See Attachment 2; Supplemental Guidelines, Part II) the service designation is subject to review and approval by the UW System Office of Human Resources.

(2) Review of Redesigned Vacant Classified Positions

In accordance with s. 36.09(1)(i) Wis. Stats., the redesign of a classified position which may support designation of the position in the unclassified service is subject to the approval of the Department of Employment Relations. However, under terms of an agreement (Attachment 5) between the Department Secretary and the UW System President, the UW System may authorize the designation of certain classified positions as academic staff on behalf of the Secretary. Requests for conversion of redesigned vacant classified positions to the unclassified service will be subject to review and approval by the System Office of Human Resources. Such requests should be sent to the System Office of Human Resources by the Chancellor (or his/her designee) with his/her recommendation and any supporting documentation. No verbal or written contract may be issued until a final decision is rendered by System Administration and/or the Department of Employment Relations.

If the vacant classified position is redesigned to describe a position title which the Secretary reserves for final review and approval, and the System Office of Human Resources supports the requested conversion, the System Office of Human Resources will forward the request to the DER Secretary. If the System Office of Human Resources denies the requested conversion, the Chancellor shall be advised of the reasons in writing. The Chancellor may pursue the conversion request with the Department of Employment Relations.

If the vacant classified position is redesigned to describe a position title which the DER Secretary authorizes the UW System to review and approve on his/her behalf, and the System Office of Human Resources supports the requested conversion, the System Office of Human Resources will advise the Chancellor in writing. If the System Office of Human Resources denies the requested conversion, the Chancellor shall be advised of the reasons in writing. The Chancellor may appeal a denial to a Standing Systemwide Position Conversion Appeals Panel appointed by the President. At the request of the Chancellor, the Appeals Panel will review the decision of the System Office of Human Resources regarding the proper service designation of the redesigned vacant position. The Appeals Panel will offer a recommendation to the System President, who will make a final decision on behalf of the DER Secretary. Attachment 4 outlines the Appeals Panel procedures.

(3) Review of Redesigned Vacant Unclassified Positions

The service designation of redesigned vacant unclassified positions has an impact on all institutions; particularly when a position that is separate and distinct to higher education is redesigned to include duties which may be similar to those found in the classified service. Therefore, requests to redesign vacant unclassified positions to include duties which may be similar to those found in the classified service (i.e., titles listed in Supplemental Guidelines, Part II) will be subject to review and approval by the System Office of Human Resources. Such requests should be sent to the System Office of Human Resources by the Chancellor (or his/her designee) with his/her recommendation and any supporting documentation. No verbal or written contract may be issued until a final decision is rendered by System Administration.

If the vacant unclassified position is redesigned to describe a position title listed in the Supplemental Guidelines, Part II, and the System Office of Human Resources approves the requested service designation, the System Office of Human Resources will notify the Chancellor in writing. If the System Office of Human Resources denies the requested service designation, the Chancellor shall be advised of the reasons in writing. The Chancellor may appeal a denial to a Standing Systemwide Position Conversion Appeals Panel appointed by the System President. At the request of the Chancellor, the Appeals Panel will review the decision of the System Office of Human Resources regarding the proper service designation of the redesigned vacant unclassified position. The Appeals Panel will offer a recommendation to the System President, who will make the final decision. (See Attachment 4)

If the vacant unclassified position is redesigned to describe a position title listed in the Supplemental Guidelines, Part I, the Chancellor may approve the service designation upon the advice of the compliance review committee.

(4) Review of Filled Positions

It is anticipated that changes in service designations for filled positions will be rare. Compliance review committees should be mindful that salary and/or career advancement limitations imposed by the unclassified title and salary structure or the classified service may not form a basis for service designations.

Section 36.09(1)(i) Wis. Stats., provides "No position in the classified service may be designated as an academic staff position ... unless the Secretary of Employment Relations approves the designation." However, under terms of an agreement (Attachment 5) between the DER Secretary and the System President, the UW System may authorize the designation of certain classified positions as academic staff on behalf of the Secretary. Requests for conversion of filled classified positions to the unclassified service will be subject to review and approval by the System Office of Human Resources. Such requests should be sent to the System Office of Human Resources by the Chancellor (or his/her designee) with his/her recommendation and any supporting documentation. No verbal or written contract may be issued until a final decision is rendered by System Administration and/or the Department of Employment Relations.

If the Chancellor, upon recommendation of the compliance review committee, recommends that a filled classified position be converted to an unclassified position title which the DER Secretary reserves for final review and approval, and the System Office of Human Resources supports the requested conversion, the System Office of Human Resources will forward the request to the DER Secretary. If the System Office of Human Resources denies the requested conversion, the Chancellor will be advised of the reasons in writing. The Chancellor may pursue the conversion request with the Department of Employment Relations.

If the Chancellor, upon recommendation of the compliance review committee, recommends that a filled classified position be converted to an unclassified position title which the DER Secretary authorizes the UW System to review and approve on his/her behalf, and the System Office of Human Resources supports the requested conversion, the System Office of Human Resources will advise the Chancellor in writing. If the System Office of Human Resources denies the requested conversion, the Chancellor will be advised of the reasons in writing. The Chancellor may appeal a denial to a Standing Systemwide Position Conversion Appeals Panel appointed by the System President. At the request of the Chancellor, the Appeals Panel will review the decision of the System Office of Human Resources regarding the proper service designation of the redesigned vacant position. The Appeals Panel will offer a recommendation to the President, who will make a final decision on behalf of the Secretary. (See Attachment 4)

7.05 REPORTING REQUIREMENTS

As noted in Section 7.02 above, adoption of the joint policy concerning the designation of positions as classified or academic staff included an agreement that appointments from the classified service to the academic staff would be periodically reported by the UW System Administration to the Department of Employment Relations. Moreover, the terms of an agreement between the Secretary and the System President to administer s. 36.09(1)(i) Stats., may include the submission of periodic reports to DER. (See Attachment 5, prescribed standard #6) Therefore, documentation submitted by the Chancellor to the System Office of Human Resources will be used to prepare periodic reports of appointments to the Department of Employment Relations.

7.06 SUPPLEMENTAL GUIDELINES

The unclassified title structure implemented in 1986-87 offers systemwide definitions of academic staff and limited titles. However, the availability of an academic staff/limited title should not be interpreted to infer that a classified position which meets an academic staff/limited title definition should be transferred to the academic staff. Thus, while the joint policy predates the systemwide unclassified title structure, the basic principles of this policy must be followed. That is, when the duties of a position are not clearly unique to higher education, the nature and purpose of the position must be examined in accordance with this Unclassified Personnel Guideline to determine the proper designation of the position in the classified service or the unclassified service.

Supplemental guidelines (Attachment 2) are designed for further guidance in an effort to link available systemwide unclassified titles to the original joint policy. These guidelines will be amended as necessary to reflect modifications to the title structure. Compliance review committees should refer to the general and supplemental guidelines when considering applications for transfer between the unclassified service and classified service. The Supplemental Guidelines were revised as a result of the 1993 study of classified/unclassified service designations. Under the terms of agreement (November 1993) between the System President and the DER Secretary, "The revised Supplement to Unclassified Personnel Guideline #7 (Attachment 2) shall be continuously applied to all professional positions in the UW System."